

**BEFORE THE
PHYSICIAN ASSISTANT BOARD
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

RUSHTON E. HALBERT, III, P.A.

Case No. 950-2015-000628

**Physician Assistant
License No. PA 11658**

Respondent

DECISION AND ORDER

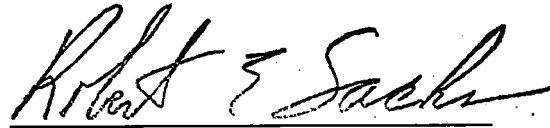
The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Physician Assistant Board, Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on April 27, 2018.

IT IS SO ORDERED March 30, 2018.

PHYSICIAN ASSISTANT BOARD

By:



Robert E. Sachs, P.A., President

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 CLAUDIA RAMIREZ
Deputy Attorney General
4 State Bar No. 205340
California Department of Justice
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7 *Attorneys for Complainant.*

8
9 **BEFORE THE
PHYSICIAN ASSISTANT BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**
10

11 In the Matter of the Accusation Against:

Case No. 950-2015-000628

12 RUSHTON E. HALBERT III, P.A.
25333 McCoy Street
13 Harbor City, CA 90710

OAH No. 2017071008

14 Physician Assistant License No. PA 11658,

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.
16

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Maureen L. Forsyth ("Complainant") is the Executive Officer of the Physician
21 Assistant Board ("Board"). She brought this action solely in her official capacity and is
22 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
23 Claudia Ramirez, Deputy Attorney General.

24 2. Respondent Rushton E. Halbert III, P.A. ("Respondent") is represented in this
25 proceeding by attorney Robert S. Amador, Esq., whose address is: 21250 Hawthorne Blvd., Suite
26 700, Torrance, California, 90503.

27 3. On or about April 15, 1985, the Board issued Physician Assistant License No. PA
28 11658 to Respondent. That license was in full force and effect at all times relevant to the charges

1 brought in Accusation No. 950-2015-000628, and will expire on September 30, 2018, unless
2 renewed.

3 JURISDICTION

4 4. Accusation No. 950-2015-000628 was filed before the Board, and is currently
5 pending against Respondent. The Accusation and all other statutorily required documents were
6 properly served on Respondent on May 9, 2017. Respondent timely filed his Notice of Defense
7 contesting the Accusation.

8 5. A copy of Accusation No. 950-2015-000628 is attached as Exhibit A and
9 incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 950-2015-000628. Respondent has also carefully read,
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
14 Disciplinary Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
17 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
18 to the issuance of subpoenas to compel the attendance of witnesses and the production of
19 documents; the right to reconsideration and court review of an adverse decision; and all other
20 rights accorded by the California Administrative Procedure Act and other applicable laws.

21 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 CULPABILITY

24 9. Respondent understands and agrees that the charges and allegations in Accusation
25 No. 950-2015-000628, if proven at a hearing, constitute cause for imposing discipline upon his
26 Physician Assistant License; however, Respondent waives the right to dispute the Accusation and
27 does not hereby admit to any fault or wrongdoing.

28 10. For the purpose of resolving the Accusation without the expense and uncertainty of

1 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
2 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
3 those charges.

4 11. Respondent agrees that if he ever petitions for early termination or modification of
5 probation, or if the Board ever petitions for revocation of probation, all of the charges and
6 allegations contained in Accusation No. 950-2015-000628 shall be deemed true, correct and fully
7 admitted by Respondent for purposes of that proceeding or any other licensing proceeding
8 involving Respondent in the State of California.

9 12. Respondent agrees that his Physician Assistant License is subject to discipline and he
10 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
11 below.

12 CONTINGENCY

13 13. This stipulation shall be subject to approval by the Physician Assistant Board.
14 Respondent understands and agrees that counsel for Complainant and the staff of the Physician
15 Assistant Board may communicate directly with the Board regarding this stipulation and
16 settlement, without notice to or participation by Respondent or his counsel. By signing the
17 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
18 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
19 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
20 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
21 action between the parties, and the Board shall not be disqualified from further action by having
22 considered this matter.

23 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
24 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
25 signatures thereto, shall have the same force and effect as the originals.

26 15. In consideration of the foregoing admissions and stipulations, the parties agree that
27 the Board may, without further notice or formal proceeding, issue and enter the following.
28 Disciplinary Order:

DISCIPLINARY ORDER

1
2 1. IT IS HEREBY ORDERED that Physician Assistant License No. PA 11658 issued to
3 Respondent Rushton E. Halbert III, P.A. is revoked. However, the revocation is stayed and
4 Respondent is placed on probation for two (2) years on the following terms and conditions.

5 2. EDUCATION COURSE. Within 60 days of the effective date of the decision,
6 Respondent shall submit to the Board or its designee for its prior approval an educational program
7 or course from an accredited program which shall not be less than 20 hours of Category 1 CME,
8 for each year of probation. The education course shall be aimed at correcting any areas of
9 deficient practice or knowledge. The course shall be Category I certified, limited to classroom,
10 conference, or seminar settings.

11 Respondent shall pay the cost of the course.

12 Respondent shall submit a certification of successful completion to the Board or its
13 designee within 15 days after completing the course.

14 3. ON-SITE SUPERVISION. The supervising physician shall be on site at all times
15 Respondent is practicing.

16 4. APPROVAL OF SUPERVISING PHYSICIAN. Kenneth Sterling Bradley, M.D.,
17 Physician's and Surgeon's Certificate Number G 82005, is approved to serve as Respondent's
18 supervising physician. Respondent shall have the supervising physician submit quarterly reports
19 to the Board or its designee.

20 If the supervising physician resigns or is no longer available, Respondent shall, within 15
21 days, submit the name and license number of a new supervising physician and a practice plan
22 detailing the nature and frequency of supervision to be provided for approval. Respondent shall
23 not practice until a new supervising physician has been approved by the Board or its designee.

24 5. NOTIFICATION OF EMPLOYER AND SUPERVISING PHYSICIAN.
25 Respondent shall notify his current and any subsequent employer and supervising physician(s) of
26 the discipline and provide a copy of the Accusation, Decision, and Order to each employer and
27 supervising physician(s) during his period of probation, before accepting or continuing
28 employment. Respondent shall ensure that each employer informs the Board or its designee, in

1 writing within 30 days, verifying that the employer and supervising physician(s) have received a
2 copy of the Accusation, Decision, and Order.

3 This condition shall apply to any change(s) in place of employment.

4 Respondent shall provide to the Board or its designee the names, physical addresses,
5 mailing addresses, and telephone numbers of all employers, supervising physicians, and work site
6 monitor, and shall inform the Board or its designee in writing of the facility or facilities at which
7 the person practices as a physician assistant.

8 Respondent shall give specific, written consent to the Board or its designee to allow the
9 Board or its designee to communicate with the employer, supervising physician, or work site
10 monitor regarding the licensee's work status, performance, and monitoring.

11 6. OBEY ALL LAWS. Respondent shall obey all federal, state, and local laws, and all
12 rules governing the practice of medicine as a physician assistant in California, and remain in full
13 compliance with any court-ordered criminal probation, payments, and other orders.

14 7. QUARTERLY REPORTS. Respondent shall submit quarterly declarations under
15 penalty of perjury on forms provided by the Board or its designee, stating whether there has been
16 compliance with all the conditions of probation.

17 8. OTHER PROBATION REQUIREMENTS. Respondent shall comply with the
18 Board's probation unit. Respondent shall, at all times, keep the Board and probation unit
19 informed of Respondent's business and residence addresses. Changes of such addresses shall be
20 immediately communicated in writing to the Board and probation unit. Under no circumstances
21 shall a post office box serve as an address of record, except as allowed by California Code of
22 Regulations 1399.523.

23 Respondent shall appear in person for an initial probation interview with the Board or its
24 designee within 90 days of the decision. Respondent shall attend the initial interview at a time
25 and place determined by the Board or its designee.

26 Respondent shall, at all times, maintain a current and renewed physician assistant license.

27 Respondent shall also immediately inform the probation unit, in writing, of any travel to
28 any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than

1 thirty (30) days.

2 9. INTERVIEW WITH MEDICAL CONSULTANT. Respondent shall appear in
3 person for interviews with the Board's medical or expert physician assistant consultant upon
4 request at various intervals and with reasonable notice.

5 10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
6 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
7 30 calendar days. Non-practice is defined as any period of time exceeding 30 calendar days in
8 which Respondent is not practicing as a physician assistant. Respondent shall not return to
9 practice until the supervising physician is approved by the Board or its designee.

10 If, during probation, Respondent moves out of the jurisdiction of California to reside or
11 practice elsewhere, including federal facilities, Respondent is required to immediately notify the
12 Board in writing of the date of departure and the date of return, if any.

13 Practicing as a physician assistant in another state of the United States or federal
14 jurisdiction while on active probation with the physician assistant licensing authority of that state
15 or jurisdiction shall not be considered non-practice.

16 All time spent in a clinical training program that has been approved by the Board or its
17 designee, shall not be considered non-practice. Non-practice due to a Board-ordered suspension
18 or in compliance with any other condition or probation, shall not be considered a period of non-
19 practice.

20 Any period of non-practice, as defined in this condition, will not apply to the reduction of
21 the probationary term.

22 Periods of non-practice do not relieve Respondent of the responsibility to comply with the
23 terms and conditions of probation.

24 It shall be considered a violation of probation if for a total of two years, Respondent fails to
25 practice as a physician assistant; Respondent shall not be considered in violation for non-practice
26 as long as Respondent is residing and practicing as a physician assistant in another state of the
27 United States and is on active probation with the physician assistant licensing authority of that
28 state, in which case the two-year period shall begin on the date probation is completed or

1 terminated in that state.

2 11. UNANNOUNCED CLINICAL SITE VISIT. The Board or its designee may make
3 unannounced clinical site visits at any time to ensure that Respondent is complying with all terms
4 and conditions of probation.

5 12. CONDITION FULFILLMENT. A course, evaluation, or treatment completed after
6 the acts that gave rise to the charges in the accusation, but prior to the effective date of the
7 Decision may, in the sole discretion of the Board or its designee, be accepted towards the
8 fulfillment of the condition.

9 13. COMPLETION OF PROBATION. Respondent shall comply with all financial
10 obligations (e.g., cost recovery, probation costs) no later than 14 calendar days prior to the
11 completion of probation. Upon successful completion of probation, Respondent's license will be
12 fully restored.

13 14. VIOLATION OF PROBATION. If Respondent violates probation in any respect,
14 the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation
15 and carry out the disciplinary order that was stayed. If an accusation or petition to revoke
16 probation is filed against Respondent during probation, the Board shall have continuing
17 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
18 is final.

19 15. COST RECOVERY. Respondent is hereby ordered to reimburse the Physician
20 Assistant Board the amount of \$15,480.50 in equal monthly installments for its investigative and
21 enforcement costs delivered to the Board no later than the last day of each month. Failure to
22 reimburse the Board's costs for its investigation and enforcement shall constitute a violation of
23 the probation order. The filing of bankruptcy by the Respondent shall not relieve the Respondent
24 of his responsibility to reimburse the Board for its investigative and enforcement costs.

25 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
26 with probation monitoring each and every year of probation, as designated by the Board, which
27 may be adjusted on an annual basis. The costs shall be made payable to the Physician Assistant
28 Board and delivered to the Board no later than January 31 of each calendar year.

1 17. VOLUNTARY LICENSE SURRENDER. Following the effective date of this
2 probation, if Respondent ceases practicing due to retirement, health reasons, or is otherwise
3 unable to satisfy the terms and conditions of probation, Respondent may request, in writing, the
4 voluntarily surrender of Respondent's license to the Board. Respondent's written request to
5 surrender his or her license shall include the following: his or her name, license number, case
6 number, address of record, and an explanation of the reason(s) why Respondent seeks to
7 surrender his license. The Board reserves the right to evaluate the Respondent's request and to
8 exercise its discretion whether to grant the request, or to take any other action deemed appropriate
9 and reasonable under the circumstances. Respondent shall not be relieved of the requirements of
10 his probation unless the Board or its designee notifies Respondent in writing that Respondent's
11 request to surrender his license has been accepted. Upon formal acceptance of the surrender,
12 Respondent shall, within 15 days, deliver Respondent's wallet and wall certificate to the Board or
13 its designee and shall no longer practice as a physician assistant. Respondent will no longer be
14 subject to the terms and conditions of probation and the surrender of Respondent's license shall
15 be deemed disciplinary action. If Respondent re-applies for a physician assistant license, the
16 application shall be treated as a petition for reinstatement of a revoked license.

17 ACCEPTANCE

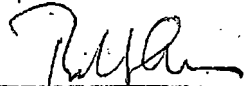
18 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
19 discussed it with my attorney, Robert S. Amador, Esq. I understand the stipulation and the effect
20 it will have on my Physician Assistant License. I enter into this Stipulated Settlement and
21 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
22 Decision and Order of the Physician Assistant Board.

23
24
25 DATED: 1/24/2018

Rushton E. Halbert III
26 RUSHTON E. HALBERT III
27 Respondent
28

1 I have read and fully discussed with Respondent Rushton E. Halbert III the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4
5
6 DATED: 1/24/18


ROBERT S. AMADOR, ESQ.
Attorney for Respondent

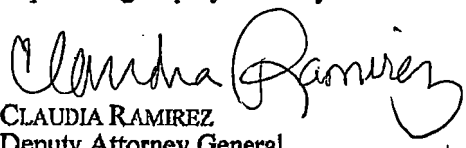
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9 ENDORSEMENT

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
11 submitted for consideration by the Physician Assistant Board.

12 Dated: 1/25/18

Respectfully submitted,

13 XAVIER BECERRA
14 Attorney General of California
15 E. A. JONES III
Supervising Deputy Attorney General

16 
17 CLAUDIA RAMIREZ
18 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 950-2015-000628

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 CLAUDIA RAMIREZ
Deputy Attorney General
4 State Bar No. 205340
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5 300 South Spring Street, Suite 1702
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6 Telephone: (213) 897-5678
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7 Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 9 2017
BY Robyn Fitzwater ANALYST

8 **BEFORE THE**
9 **PHYSICIAN ASSISTANT BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 950-2015-000628

13 RUSHTON E. HALBERT III, P.A.
25333 McCoy Street
Harbor City, CA 90710

A C C U S A T I O N

14 Physician Assistant License
15 No. PA 11658,

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Maureen L. Forsyth ("Complainant") brings this Accusation solely in her official
20 capacity as the Executive Officer of the Physician Assistant Board, Department of Consumer
21 Affairs ("Board").

22 2. On or about April 15, 1985, the Physician Assistant Board issued Physician Assistant
23 License Number PA 11658 to Rushton E. Halbert III, P.A. ("Respondent"). That license was in
24 full force and effect at all times relevant to the charges brought herein and will expire on
25 September 30, 2018, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board, under the authority of the following
28 laws. All section references are to the Business and Professions Code ("Code") unless otherwise

1 indicated.

2 4. Section 3501, subdivision (a)(1) of the Code states:

3 “(a) As used in this chapter:

4 “(1) ‘Board’ means the Physician Assistant Board.”

5 5. Section 3527 of the Code states:

6 “(a) The board may order the denial of an application for, or the issuance subject to terms
7 and conditions of, or the suspension or revocation of, or the imposition of probationary conditions
8 upon a physician assistant license after a hearing as required in Section 3528 for unprofessional
9 conduct which includes, but is not limited to, a violation of this chapter, a violation of the
10 Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board
11 of California.

12 “...”

13 “(f) The board may order the licensee to pay the costs of monitoring the probationary
14 conditions imposed on the license.

15 “(g) The expiration, cancellation, forfeiture, or suspension of a physician assistant license
16 by operation of law or by order or decision of the board or a court of law, the placement of a
17 license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive
18 the board of jurisdiction to commence or proceed with any investigation of, or action or
19 disciplinary proceeding against, the licensee or to render a decision suspending or revoking the
20 license.”

21 6. California Code of Regulations, title 16, section 1399.521 states:

22 “In addition to the grounds set forth in section 3527, subd. (a), of the Code, the board may
23 deny, issue subject to terms and conditions, suspend, revoke or place on probation a physician
24 assistant for the following causes:

25 “(a) Any violation of the State Medical Practice Act which would constitute unprofessional
26 conduct for a physician and surgeon.

27 “...”

28 “(d) Performing medical tasks which exceed the scope of practice of a physician assistant as

1 prescribed in these regulations.”

2 7. Section 2227 of the Code states:

3 “(a) A licensee whose matter has been heard by an administrative law judge of the Medical
4 Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default
5 has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary
6 action with the board, may, in accordance with the provisions of this chapter:

7 “(1) Have his or her license revoked upon order of the board.

8 “(2) Have his or her right to practice suspended for a period not to exceed one year upon
9 order of the board.

10 “(3) Be placed on probation and be required to pay the costs of probation monitoring upon
11 order of the board.

12 “(4) Be publicly reprimanded by the board. The public reprimand may include a
13 requirement that the licensee complete relevant educational courses approved by the board.

14 “(5) Have any other action taken in relation to discipline as part of an order of probation, as
15 the board or an administrative law judge may deem proper.

16 “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical
17 review or advisory conferences, professional competency examinations, continuing education
18 activities, and cost reimbursement associated therewith that are agreed to with the board and
19 successfully completed by the licensee, or other matters made confidential or privileged by
20 existing law, is deemed public, and shall be made available to the public by the board pursuant to
21 Section 803.1.”

22 8. Section 2234 of the Code states:

23 “The board shall take action against any licensee who is charged with unprofessional
24 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
25 limited to, the following:

26 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
27 violation of, or conspiring to violate any provision of this chapter.

28 “(b) Gross negligence.

1 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
2 omissions. An initial negligent act or omission followed by a separate and distinct departure from
3 the applicable standard of care shall constitute repeated negligent acts.

4 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
5 for that negligent diagnosis of the patient shall constitute a single negligent act.

6 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
7 constitutes the negligent act described in paragraph (1), including, but not limited to, a
8 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs from the
9 applicable standard of care, each departure constitutes a separate and distinct breach of the
10 standard of care.

11 “(d) Incompetence.

12 “(e) The commission of any act involving dishonesty or corruption which is substantially
13 related to the qualifications, functions, or duties of a physician and surgeon.

14 “(f) Any action or conduct which would have warranted the denial of a certificate.

15 “(g) The practice of medicine from this state into another state or country without meeting
16 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
17 apply to this subdivision. This subdivision shall become operative upon the implementation of the
18 proposed registration program described in Section 2052.5.

19 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
20 participate in an interview by the board. This subdivision shall only apply to a certificate holder
21 who is the subject of an investigation by the board.”

22 9. Section 2266 of the Code states:

23 “The failure of a physician and surgeon to maintain adequate and accurate records relating
24 to the provision of services to their patients constitutes unprofessional conduct.”

25 10. Section 125.3 of the Code states, in pertinent part, that the Board may request the
26 administrative law judge to direct a licensee found to have committed a violation or violations of
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts-Patients A.C. and E.M.)

11. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code in that he engaged in repeated negligent acts in his care and treatment of patients A.C. and E.M. The facts and circumstances are as follows:

Patient A.C.

12. The standard of care is to review any diagnostics including a chest x-ray personally ordered by the provider.

13. On or about September 9, 2014, Patient A.C., a forty-one-year-old female, presented for clearance to work in a school setting which included a request for tuberculosis screening. She indicated a history of a previous positive tuberculosis skin test.

14. Respondent inquired as to symptom review, specifically asking about fevers, chills, and weight loss. He noted that she had no cough or hemoptysis. She had a negative symptom review. Respondent ordered a one-view chest x-ray. The chest x-ray revealed that Patient A.C. had a 7 cm mass in the mid-left lung. Respondent did not review the chest x-ray. He signed for the patient, allowing her to return to work in a school setting.

15. Respondent admitted not reviewing the x-ray he ordered for Patient A.C.

16. Respondent committed a simple departure from the standard of care when he failed to review a diagnostic test that he had ordered.

Patient E.M.

17. The standard of care in an elderly male is to assess risk factors for cardiovascular disease, particularly when the elderly male presents with symptoms of chest pain. With respect to a patient who has a risk of coronary artery disease, the standard of care for a patient presenting with chest pain for the previous two weeks would include a physical exam of the cardiovascular system, a broadened differential diagnosis, and either basic diagnostic testing and/or referral for cardiac evaluation.

18. On or about May 30, 2013, patient E.M., a sixty-seven-year-old male, presented with shortness of breath after eating, and with exercise, for the past two weeks. He reportedly had no

1 history of asthma.

2 19. In the review of systems notes, Respondent noted that E.M. had chest pain, shortness
3 of breath, and heartburn. The physical exam notes on the pulmonary exam show there were no
4 wheezes and no rales. Respondent noted E.M.'s abdomen was soft, with normal bowel sounds
5 and no tenderness. Respondent did not perform and/or describe his cardiac exam in E.M.'s
6 medical records.

7 20. Respondent ordered a two-view chest x-ray, pulmonary function testing, and albuterol
8 inhaler.

9 21. E.M. was not hypertensive or tachycardic on presentation. He possibly had a lower
10 risk factor for coronary artery disease. However, it does not appear that Respondent assessed
11 E.M.'s risk factors for cardiovascular disease. E.M. was taking aspirin, possibly for prevention of
12 myocardial infarction. He was also taking diabetic medications, including Metformin. E.M. was
13 also taking Atorvastatin, presumably for lipid control. Based on E.M.'s medications and
14 conditions for which he was taking them, it can be inferred that the patient, at minimum, had a
15 risk of coronary artery disease.

16 22. Respondent appropriately assessed E.M.'s primary complaint of shortness of breath.
17 However, he failed to broaden his differential diagnosis in an elderly male with diabetes and
18 hyperlipidemia, presenting with chest pain. That would include a physical exam and further
19 inquiry into the patient's chest pain to include diagnostic modalities such as an electrocardiogram
20 (EKG) and/or referral to Cardiology for further investigation, e.g., a stress test.

21 23. Respondent committed a simple departure from the standard of care in failing to
22 properly assess an elderly male patient with chest pain with known cardiovascular risk factors.

23 24. Respondent's acts and/or omissions as set forth in paragraphs 11 through 22,
24 inclusive above, constitute repeated negligent acts pursuant to section 2234, subdivision (c) of the
25 Code. Therefore, cause for discipline exists.

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1 3. Ordering Respondent Rushton E. Halbert, III, P.A., if placed on probation, to pay the
2 Physician Assistant Board the costs of probation monitoring pursuant to Business and Professions
3 Code sections 3527, subdivision (f); and

4 4. Taking such other and further action as deemed necessary and proper.
5
6

7 DATED: May 9, 2017


MAUREEN L. FORSYTH
Executive Officer
Physician Assistant Board
Department of Consumer Affairs
State of California
Complainant

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